

M/027/0087  
cc: Tom

STONE RESOURCES, LC  
218 W. Paxton Ave.  
Salt Lake City, Utah 84101  
Phone: 801-706-3462

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October 24, 2009

Patricia M. Bailey  
Acting Field Office Manager  
United States Department of the Interior  
Bureau of Land Management  
Fillmore Field Office  
35 East 500 North  
Fillmore, UT 84631

RECEIVED

OCT 28 2009

DIV. OF OIL, GAS & MINING

Re: Plan of Operations for removal of Palletized Stone dated August 26, 2009

Dear Ms. Bailey

This letter is in response to your correspondence dated September 28, 2009. First, I am writing to bring the following erroneous conclusions to your attention:

- Stone Resources, as a new claimant, has only accepted responsibility to properly reclaim and restore the land disturbed respecting UTU 79464-01. Stone Resources has accepted no other responsibility and disavows any other responsibility respecting any individual or entity in regards to any prior operations under UTU 79464-01, and in particular any obligation for claimed prior royalty amounts for stone they sold and for which they pocketed the proceeds.
- Stone Resources did not, has not and does not intend to become the operator for UTU 79464-01.
- The August 2009 Plan of Operations for removal of palletized stone submitted by Stone Resources was not filed as and is not an amendment to Plan UTU-79464.01, as filed by a previous claimant.

It is the position of Stone Resources, a new claimant, that any future operations on the North Canyon mining claims 1-5 will require a new plan of operations, filed by and obligating Stone Resources as a new operator.

Although, W. David Weston, on behalf of Allroc Fine Aggregates, respecting UTU7872-01 executed a Notice of Change of Operator and Assumption of Past Liability document, there is no evidence presently locatable in the files of Stone Resources, to identify that Stone Resources executed a similar Notice of Change of Operator and Assumption of Past Liability for the UTU-79464-01 Plan of Operations. Stone Resources

1005

has only agreed to assume liability for reclamation for the areas disturbed pursuant to past operations under UTU-79464-01. Stone Resources only assumed liability for RECLAMATION of the Tejon quarries Plan of Operation upon its purchase of and subsequent transfer to it of title to the actual reclamation bonds. Stone Resources, has received no benefits pursuant to UTU-79464-01. Stone Resources has not agreed to assume any other liability arising under UTU-79464-01.

The Tejon claims are not identical to or related to the North Canyon No. 1 through No. 5 mining claims, recently filed by Stone Resources. It is the intention of Stone Resources to submit its own operating plan for the North Canyon Claims to which it intends to attach the existing reclamation bonds as acquired.

Any BLM violations occurring under UTU-79464 are disavowed by and are not the responsibility of Stone Resources, including all items referenced in the November 2008 BLM letter of cessation. It is Stone Resources position that any operational rights and privileges granted by Plan UTU-79464.01 terminated on September 1, 2008 when the Tejon claims were abandoned. See *R. Gail Tibbetts*, 43 IBLA 210, 86 I.D. 538 (1979), overruled in part on other grounds, *Hugh B. Fate, Jr.*, 86 IBLA 215 (1985) which hold that "Once a claim is abandoned and void, there can be no subsequent amendments of the claim, and no rights can be claimed on account of the void claim." This comports with the general rule that upon the failure of a mining claimant to appeal from a decision cancelling recordation of a mining claim under sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1988), all rights under the location are conclusively deemed to be abandoned and void. Plan UTU-79464 should be deemed void and any violations under Plan, UTU are the obligations of the owners of the Tejon mining claims for the reasons set out in *McCall* IBLA 99-277 Decided May 29, 2003.

Should the Fillmore office disagree with the conclusions of Stone Resources set out above, please provide legal support for your claim that Stone Resources is the current operator of record and liable under Plan, UTU 79464-01, for anything other than reclamation.

Where plan UTU 79464-01 terminated with the abandonment of the former Tejon claims, the present Plan submittal by new claimants to remove the palletized stone is not an amendment but a fresh new plan of operations. I am requesting that you reconsider your decision and approve the plan of operations for Removal of Palletized Stone and Severed Monolithic Boulders, dated August 26, 2009.

You acknowledge that the description in the proposed new plan is complete. You also state that "If certain conditions are met, including the establishment of an escrow account, operations to remove possible common variety minerals may be authorized by BLM." It is an established common practice in Utah for the BLM to permit building stone mining operations until a final decision on appeal is made respecting mining claim validity, by the payment into escrow of an amount equal to a Minerals Material Sale. This

is clearly noted by the IBLA in Cambrillic Natural Stone Unique Minerals, Inc. Ibla, Decided May 13, 2004 wherein they stated:

The agency-wide procedure of requiring reasonable amounts of sales proceeds to be deposited in escrow pending the outcome of a validity examination has been upheld by this Board as reasonable and consistent with the law. Lone Mountain Production Co., 139 IBLA 244, 249 (1997); Atlantic Richfield Co., 121 IBLA 373, 380, 98 I.D. 429, 433 (1991). As we stated in Jesse R. Collins, "[t]his procedure amply protects the rights of both the Government to receive proceeds of sales of mineral material and the due-process rights of claimants to have the legal status of minerals on their claims fully and fairly adjudicated." 145 IBLA at 204. The July 7, 2000, decision indicated that the required deposits in escrow were calculated based upon the "appraised value of stone in the area," which amounted to \$10 per ton. (July 7, 2000, Decision, BLM File UTU-078275.) Appellant has not provided any evidence suggesting or establishing that the amount of money required to be deposited is unreasonable in light of the appraised value of stone in the area. Accordingly, we affirm BLM's decision requiring Cambrillic to deposit \$1000 per 100 tons of material removed, pending conclusion of the validity determination.

Stone Resources would expect to receive equal treatment under the law and requests that you accept the proposed escrow amount set forth in its new Plan of Operations or provide a legal basis as to why this amount is not acceptable.

I will now comment on your statements respecting a NEPA review. The present Plan, is not a mining plan and only seeks to remove stone situated on wood pallets. As noted in your letter, no Plan is currently being submitted for mining or processing operations. Since the Plan to remove pallets does not seek approval to conduct mining operations at the quarries, BLM does not need to undertake a NEPA review for the removal of the palletized stone. For the reasons set out in the new plan no NEPA analysis is necessary or required. In the event you disagree with this conclusion would you please state with specificity why you consider a NEPA analysis necessary to remove stone residing on wood pallets adjacent to a well traveled road?

Stone Resources, after conducting its own evaluations, will be submitting its own mining plan which would require a NEPA analysis. Accordingly, it is requested that the BLM immediately authorize a NEPA analysis where by this notice there is an intent to submit a new mining plan.

A paleontological study, apparently acceptable to the BLM, was filed by the prior claimants as necessary to conduct operations (for several years) as authorized by UTU 79464-01 and the Fillmore office of the BLM. I have enclosed a copy of this study to verify its prior inclusion in your files. Please identify what other past, present and

reasonably foreseeable actions that would impact this site are required for analysis other than a NEPA examination (which you indicated could be concluded within six months).

It is logically difficult to foresee what additional public comment would be required to remove the existing palletized stone. It clearly detracts from the natural landscape. I would appreciate receiving a copy of whatever public comments were received when the Plan UTU-79464 was first proposed and clearly implemented and sanctioned by the Fillmore office for several years. Stone Resources purchased this already severed and palletized stone from the prior operators prior to the November cessation order. Stone Resources purchase of this stone is no different than the purchases of quarried stone from Rocanville as evidenced by the prior sales records of Rocanville supplied to your office at the request of Jerry Mansfield.

The stone on the wood pallets is of sufficient weight that when the pallets get wet, they will disintegrate. These pallets will not survive another winter. Stone Resources is hereby placing the BLM on notice that it will not be responsible for reclamation of the debris resulting from the BLM allowing these pallets to disintegrate. A price has already been paid to place this stone on pallets for removal that would require no further reclamation.

It is believed that a meeting to discuss and resolve these issues would be helpful and such a meeting is again requested.

Respectfully submitted

Stone Resources

A handwritten signature in black ink, appearing to read 'W. David Weston', is written over the typed name.

W. David Weston, Manager

cc:

1. Tom Munson, Utah Division of Oil, Gas and Mining, 1594 West North Temple Ste. 1210, Salt Lake City, Utah 84114-5801
2. Salt Lake District Office (UT-20), 2370 S. 2300 W. Salt Lake City, Utah 84119
3. Solid Minerals (UT-923), Utah State Office, PO Box 45155, Salt Lake City, Utah 84145-0155
4. Jerry Mansfield, Bureau of Land Management, Fillmore Field Office, 35 East 500 North Fillmore, UT 84631

**ROCANVILLE STONE**  
**NORTH CANYON PROJECT**  
**TEJON QUARRIES**  
**MILLARD COUNTY, UTAH**

**PALEONTOLOGY REPORT**

**BY**

**ALDEN H. HAMBLIN**  
**A.H. HAMBLIN PALEONTOLOGICAL CONSULTING**  
**3793 NORTH MINERSVILLE HIGHWAY**  
**CEDAR CITY, UTAH 84720**  
**(435) 867-8355**

**MAY 7, 2005**